

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RONNY POWE,

Petitioner,

v.

NEVADA, STATE OF, *et al.*,

Respondents.

Case No. 3:20-cv-00418-MMD-CLB

ORDER

Petitioner has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1-1.) Petitioner has not submitted an application to proceed *in forma pauperis* or paid the filing fee. Accordingly, this matter has not been properly commenced. See 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Therefore, the present action will be dismissed without prejudice to the filing of a new petition in a new action with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis* on the proper form with both an inmate account statement for the past six months and a properly executed financial certificate.

It does not appear from the papers presented that a dismissal without prejudice will materially affect a later analysis of any timeliness issue with regard to a new action filed in a timely manner.¹ Petitioner at all times remains responsible for properly exhausting his claims, for calculating the running of the federal limitation period as applied to his case, and for properly commencing a timely-filed federal habeas action.

It is therefore ordered that the Clerk of the Court detach and file the petition (ECF No. 1-1).

¹Petitioner states on the face of his petition that he challenges a judgment of conviction entered in February 2017 (ECF No. 1-1 at 3). He further indicates that he did not appeal or pursue state postconviction relief. (*Id.* at 1.) The Court takes judicial notice of the docket of the Nevada Supreme Court and the Nevada Court of Appeals, which appears to reflect that the Nevada Supreme Court dismissed his direct appeal as untimely and does not reflect that Petitioner pursued any state habeas relief. See Case No. 72840.

1 It is further ordered that this action is dismissed without prejudice to the filing of a
2 new petition in a new action with a properly completed application form to proceed *in*
3 *forma pauperis*.

4 It is further ordered that a certificate of appealability is denied, as jurists of reason
5 would not find the Court's dismissal of this improperly commenced action without
6 prejudice to be debatable or incorrect.

7 It is further ordered that the Clerk of the Court enter judgment accordingly and
8 close this case.

9 DATED THIS 10th day of August 2020.

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12 MIRANDA M. DU
13 CHIEF UNITED STATES DISTRICT JUDGE
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